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no contribution to legal theory escapes his vigilant and world-wide survey of his field. He levies contribution impartially on the latest speculations of Mr. Justice Holmes, and on the newest German Civil Code. He is familiar with Professor Keener's daring application of the civil law speculation concerning "unjust enrichment." The recent abandonment in Mississippi (*Clayton v. Clark*, 74 Miss., 499, 1896), of the doctrine of *Pinnel's Case* (5 Co. Rep., 117), and the reversal by the United States Supreme Court of its position in the Income Tax cases, are equally within his ken. He has even discovered the latest and most amusing abuse of the term jurisprudence, in the existence of a chair of "Dental Jurisprudence" in the Dental School of Chicago.

Naturally, the notes have borne the brunt of amendment, but the text has been gone over with equal care and thoroughness. Perhaps the most extensive change appears in the section devoted to marital rights (pp. 164-168), which has been considerably extended and improved, and in the discussion (p. 176) of the recent far-reaching decision of the House of Lords in the case of *Allen v. Flood* ('98, A. C. 1). In the former of these, the consideration of informal marriages, illustrated by the "Scotch Marriage," based on mutual consent and established by cohabitation "with habit and repute," might well have included a reference to the so-called "Common Law Marriage," which has played such an important rôle of late in the domestic relations of our own State, and which seems now to be doomed to extinction at the hands of an unsympathetic legislature.

As may be gathered from the foregoing review, the new edition of Holland is not a new jurisprudence, but the old authoritative doctrine, newly illustrated and confirmed. It contains no new thought, but that will be matter of disappointment only to him who looks for a latter-day miracle. The old bottle is too rigid and unyielding for the wine of a new philosophy.

A TREATISE ON COVENANTS WHICH RUN WITH LAND, OTHER THAN COVENANTS FOR TITLE. By Henry Upser Sims. Chicago: Callaghan & Co. 1900. pp. xxxi, 288.

It is, as 'twere, with a defeated joy that the reader lays down this essay. So much was to be hoped from the conditions under which it was conceived! So futile and disappointing is the engendered product! It may be doubted if there is a subject in the whole range of the common law, which has been more confused by loose thinking, or one in which clearness of vision and complete freedom from prepossession are more needed to bring order out of chaos. In that twilight region, where the shifting boundaries of contract and property law meet and interlace, he who would walk safely must walk circumspectly, with open mind and abundant wisdom. The tyro may well hesitate to tread where Mr. Justice Holmes has stumbled and the great Sugden has fallen. Unhappily the little volume before us discloses neither the learning nor the disinterestedness requisite for the task essayed, and the result is confusion worse

confounded. Indeed, the book is not primarily an exposition of the law of covenants running with the land, but a serious attempt to maintain a discredited thesis, viz, that, by the common law, covenants—*i. e.*, the burden as well as the benefit—run with the land affected by them; that the modern English doctrine, denying them this effect, is an unjustifiable departure from common law principle, and that in the United States that principle has generally and properly been adopted. This is not the place for a consideration of the authorities and arguments by which these propositions are sought to be supported, but the weight of the demonstration may be judged from the fact that the first proposition rests concededly on a single case in the Year Books (Y. B., 4 Ed., III, 57, reheard in Y. B., 7 Ed., III, 65), in which a covenant not to build a mill on the covenantor's land was enforced against the latter's *heir* (not his assign), and from the further fact that the American cases cited to sustain the third proposition, with one or two doubtful exceptions, fail to do so. A favorable illustration of the author's method is afforded by his citation of the case of *Nye v. Hoyle*, decided by the Court of Appeals, Second Division, of New York, in 1890, and reported 120 N. Y., 195, as decisive of the general proposition that burdens, active as well as passive, may be annexed to land by covenant. It is, perhaps, an immaterial circumstance that it was not the plaintiff (as reported by our author, p. 152), but the defendant, who succeeded in the action; but the fact that the covenant of plaintiffs' grantor was in support of a water privilege created at the same time, by the same instrument, is certainly material to the question whether it comes under the general rule, or under the familiar exception in favor of covenants insupport of easements.

The foregoing comments on Mr. Sims' essay indicate sufficiently, perhaps, the criticism which it invites. Not that it fails to sustain its singular thesis—it has the best of legal company in that limbo of failures—but that its reading of the authorities is inaccurate and ill-digested, its reasoning narrow and technical, and its conclusions forced to fit a preconceived theory. To this should be added that, along with a considerable power of vigorous and graphic expression, the book betrays a singular infelicity of phrase. Such combinations as these—"and to greater complicate matters," "equally as apparent," "land hitherto to be acquired," "some principle which could be an origin of covenants"—are of too frequent occurrence to be referred to haste in composition or to carelessness in proofreading.

It is no pleasant task to dwell on the faults of a work so well conceived, so serious in its aim, so faithfully executed. For, with all its imperfections, the book is one to be cordially welcomed; not, indeed, for what it has achieved, but for what it has attempted and for the promise which it brings. It is high time for the scientific spirit and method which are transforming our law schools to bring forth fruit, and such books as this should come, in increasing number, from every law press in the land. Many of them will be crude, as this is, and many will have less saving grace than this has, but at

their worst they will do more for American law and the American bar than most of the approved "treatises" that cumber our shelves with those sweepings of law offices, with which a grateful bar pays its debt to a long-suffering profession.

Reviews to follow:

THE POLICE POWER OF THE STATE AND DECISIONS THEREON AS ILLUSTRATING THE DEVELOPMENT AND VALUE OF CASE LAW. By Alfred Russell, of the Detroit Bar. Chicago: Callaghan & Co. 1900. pp. xvii, 204.

CLERK'S ASSISTANT. By Austin Abbott, LL.D. Revised Edition. By Clarence F. Birdseye. New York: Baker, Voorhis & Co. 1900. pp. x, 1091.

PROBATE REPORTS ANNOTATED. Vol. IV. New York: Baker, Voorhis & Co. 1900. pp. xxxiii, 767.

ELEMENTS OF AMERICAN JURISPRUDENCE. By William C. Robinson, LL.D., Boston: Little, Brown & Co. 1900. pp. lviii, 401.

AN EXPOSITION OF THE PRINCIPLES OF ESTOPPEL BY MISREPRESENTATION. By John S. Ewart, Esq. Chicago: Callaghan & Co. 1900. pp. xlvii, 548.

REGISTERING TITLE TO LAND—A SERIES OF LECTURES DELIVERED AT YALE. By Jacques Dumas, LL.D., Procureur de la République, at Rethel, France. Chicago: Callaghan & Co. 1900. pp. 106.

A BRIEF FOR THE TRIAL OF CIVIL ISSUES BEFORE A JURY. Austin Abbott. Second and enlarged edition. By the Publisher's Editorial Staff. Rochester: The Lawyer's Co-operative Publishing Company. 1900. pp. xiii, 603.

A SELECTION OF CASES ON THE LAW OF INSURANCE. Edwin H. Woodruff. New York: Baker, Voorhis & Company. 1900. pp. xiii, 591.

THE PEACE CONFERENCE AT THE HAGUE. Its bearings on International Law and Policy. By F. W. Holls, D. C. L. New York: The Macmillan Co. 1900. pp. xxiv, 572.

HISTORICAL JURISPRUDENCE. By Guy Carleton Lee, Ph. D. New York: The Macmillan Co. 1900. pp. xv, 517.

THE LAW OF COMBINATIONS. Embracing Monopolies, Trusts and Combinations of Labor and Capital Conspiracy and Contracts in Restraint of Trade, together with Federal and State Anti-Trust Legislation, and the Incorporation Laws of New Jersey, West Virginia and Delaware. By Arthur J. Eddy, of the Chicago Bar. Chicago: Callaghan & Co. 1901. pp. Vol. I., xxxviii, 1-671. Vol. II., 673-1540.